

Order

Michigan Supreme Court
Lansing, Michigan

January 15, 2009

Marilyn Kelly,
Chief Justice

136962
& (43)
(44)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

JOHN H. RAY,
Plaintiff-Appellant,

v

SC: 136962
COA: 281591
Wayne CC: 07-703148-NM

TODD R. PERKINS,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the May 8, 2008 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The motions for miscellaneous relief are DENIED.

KELLY, C. J. (*dissenting*).

I believe that the Court should remand this case to the Court of Appeals for consideration as on leave granted, pursuant to MCR 7.302(G)(1). I see no reason why plaintiff's appeal should not be heard on its merits. Plaintiff submitted a copy of the circuit court order as requested by the Court of Appeals. He paid the partial fee that the Court of Appeals required for proceeding with the claim. The Court of Appeals advised the Department of Corrections to remit the balance of the fee that plaintiff owed. Hence, all fees have been paid. Also, plaintiff did everything possible to timely file his claim, including submitting it to the prison mail system three days before it had to be filed with the Court of Appeals.

HATHAWAY, J., joins the statement of KELLY, C. J.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 15, 2009

Corbin R. Davis

Clerk